



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4670

by Rep. André M. Thapedi

#### SYNOPSIS AS INTRODUCED:

815 ILCS 603/5  
815 ILCS 603/10  
815 ILCS 603/15

Amends the Contractor Prompt Payment Act. Provides that an owner may make payments on behalf of a contractor to subcontractors. Provides that, if an owner's lender requires the lender's approval before payment, the owner has an additional 25 days to obtain the approval. Provides that the Act is subject to the rights and obligations of the parties under the Mechanics Lien Act. Effective immediately.

LRB099 19537 JLS 43931 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Contractor Prompt Payment Act is amended by  
5 changing Sections 5, 10, and 15 as follows:

6 (815 ILCS 603/5)

7 Sec. 5. Definitions. In this Act:

8 (a) "Payment application" means, ~~in accordance with the~~  
9 ~~terms and definitions of the applicable contract,~~ any invoice,  
10 bill, application, or other request for periodic payment, final  
11 payment, payment of change order, or request for release of  
12 retainage from the contractor to the owner that is made in  
13 accordance with the terms and conditions of the applicable  
14 construction contract.

15 (b) "Construction contract" means a contract or  
16 subcontract, entered into after the effective date of this Act,  
17 for the design, construction, alteration, improvement, or  
18 repair of Illinois real property, except for contracts that  
19 require the expenditure of public funds and contracts for the  
20 design, construction, alteration, improvement, or repair of  
21 single family residences or multiple family residences with 12  
22 or fewer units in a single building.

23 (c) "Contractor" and "subcontractor" shall have the

1 meanings ascribed to them by the Illinois Mechanics Lien Act  
2 and cases decided under that Act.

3 (Source: P.A. 95-567, eff. 8-31-07.)

4 (815 ILCS 603/10)

5 Sec. 10. Construction contracts.

6 (a) All construction contracts shall be deemed to provide  
7 the following:

8 (1) If a contractor has performed in accordance with  
9 the provisions of a construction contract and the payment  
10 application has been approved by the owner or the owner's  
11 agent, the owner shall pay the amount due to the  
12 contractor, or on behalf of the contractor to the  
13 subcontractors claiming by, through, or under the  
14 contractor, pursuant to the payment application not more  
15 than 15 calendar days after the approval. The payment  
16 application shall be deemed approved 25 days after the  
17 owner receives it unless the owner provides, before the end  
18 of the 25-day period, a written statement of the amount  
19 withheld and the reason for withholding payment. If the  
20 owner's agreement with his or her lender requires the  
21 lender's approval of the payment application before  
22 payment, the owner may take up to an additional 25 days to  
23 obtain the approval before the payment application is  
24 deemed approved. If the owner finds that a portion of the  
25 work for which payment has been requested has not been

1       performed in accordance with the construction contract and  
2       notice is provided as required under this paragraph,  
3       payment may be withheld for the reasonable value of the  
4       ~~that~~ portion of the work not performed in accordance with  
5       the construction contract only. Payment shall be made for  
6       any portion of the construction contract for which the work  
7       has been performed in accordance with the provisions of the  
8       construction contract. Instructions or notification from  
9       an owner to his or her lender or architect to process or  
10      pay a payment application does not constitute approval of  
11      the payment application under this Act.

12           (2) If a subcontractor has performed in accordance with  
13      the provisions of his or her contract with the contractor  
14      or subcontractor and the work has been deemed approved or  
15      otherwise accepted by the owner, the owner's agent, or the  
16      contractor, either the owner shall pay the subcontractor  
17      within the time provided for payment to the contractor in  
18      this Section or the contractor shall pay to his or her  
19      subcontractor and the subcontractor shall pay to his or her  
20      subcontractor, within 15 calendar days of the contractor's  
21      receipt from the owner or the subcontractor's receipt from  
22      the contractor of each periodic payment, final payment, or  
23      receipt of retainage monies, the full amount received for  
24      the work of the subcontractor based on the work completed  
25      or the services rendered under the construction contract.

26      (b) This Act is subject to the rights and obligations of

1 all parties under the Mechanics Lien Act.

2 (Source: P.A. 95-567, eff. 8-31-07.)

3 (815 ILCS 603/15)

4 Sec. 15. Interest; suspension of performance.

5 (a) If a payment due pursuant to the provisions of this Act  
6 is not made in a timely manner, the delinquent party shall be  
7 liable for the amount of that payment, plus interest at a rate  
8 equal to 10% per annum.

9 (a-5) No construction contract may provide for any  
10 retainage in an amount that exceeds 5% of the amount of a  
11 progress payment or final payment for work performed under the  
12 construction contract.

13 (b) A contractor or subcontractor who is not paid as  
14 required by this Act may, after providing 7 calendar days'  
15 written notice to the party failing to make the required  
16 payment, suspend performance of a construction contract  
17 without penalty for breach of contract, until the payment  
18 required pursuant to this Act is made.

19 (c) The interest imposed by this Act shall not be  
20 duplicative of the interest charged under the Mechanics Lien  
21 Act.

22 (Source: P.A. 95-567, eff. 8-31-07.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.